

NOTICE OF ADOPTION

Office of the Secretary of State
Election Rules
8 CCR 1505-1

July 11, 2008

Pursuant to sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2007) and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103 C.R.S. (2007), I, Mike Coffman, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the permanent rule adoption this 11th day of July, 2008, of the Secretary of State Election Rules (8 CCR 1505-1) as follows (additions to the current rules are reflected in **SMALL CAPS** and deletions from current rules are shown in ~~stricken type~~).

Rule 2.5.3 is amended as follows:

- 2.5.3 A voter making an address change ~~within the same county~~ shall not be charged an additional processing fee.

Rule 2.12 is amended as follows:

- 2.12.3 Pursuant to section 24-21-208(3)(a), C.R.S., the designated election official shall:

- 2.12.3.1 Use the actual address of a program participant for precinct designation and shall keep the participant's address, COUNTY, and VOTING precinct number confidential.

- 2.12.4 Access to ACP participant's voter registration records is restricted pursuant to section 24-21-208(3) (b), C.R.S., as follows:

- 2.12.4.1 An ACP participant's actual address, COUNTY, and VOTING precinct number shall be masked from any public record that is required to be made, maintained, or kept pursuant to sections 1-2-227 and 1-2-301, C.R.S., and shall automatically be confidential in accordance with the provisions of section 24-72-204(3.5), C.R.S., except that the exceptions to such confidentiality set forth in section 24-72-204(3.5) (c), C.R.S., shall not apply to a program participant.

New rule 2.14 is adopted as follows:

2.14 IN ACCORDANCE WITH SECTION 1-2-508, C.R.S., THE EFFECTIVE DATE OF A VOTER REGISTRATION APPLICATION RECEIVED AT THE OFFICE OF THE SECRETARY OF STATE SHALL BE THE DATE OF RECEIPT BY THE OFFICE OF THE SECRETARY OF STATE, OR IN THE CASE OF AN APPLICATION RECEIVED BY MAIL, THE DATE OF THE POSTMARK IF LEGIBLE.

New rule 2.15 is adopted as follows:

2.15 NOTIFICATION THAT ELECTOR HAS MOVED AND REGISTERED IN A DIFFERENT COUNTY.

2.15.1 UPON RECEIPT OF THE INFORMATION TRANSFERRED PURSUANT TO SECTION 1-2-603, C.R.S., THE COUNTY CLERK AND RECORDER OF THE NEW COUNTY SHALL TRANSFER THE ELECTOR'S REGISTRATION RECORD FROM THE OLD COUNTY IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

2.15.1.1 IF THE VOTER PROVIDES A NAME, DATE OF BIRTH, AND PRIOR ADDRESS AND THE COUNTY CLERK AND RECORDER CAN MATCH THE NAME, DATE OF BIRTH, AND PRIOR ADDRESS TO THE VOTER'S PRIOR REGISTRATION RECORD, THE VOTER'S REGISTRATION RECORD SHALL BE TRANSFERRED FROM THE OLD COUNTY;

2.15.1.2 IF THE VOTER PROVIDES A NAME AND DATE OF BIRTH BUT DOES NOT PROVIDE A PRIOR ADDRESS, THE VOTER'S REGISTRATION RECORD SHALL BE TRANSFERRED FROM THE OLD COUNTY ONLY IF:

2.15.1.2.1 THE VOTER PROVIDES A DRIVER'S LICENSE OR IDENTIFICATION CARD NUMBER, AND THE COUNTY CLERK AND RECORDER OF THE COUNTY CAN MATCH THE NAME, DATE OF BIRTH, AND DRIVER'S LICENSE OR IDENTIFICATION CARD NUMBER TO THE VOTER'S PRIOR REGISTRATION RECORD; OR

2.15.1.2.2 THE VOTER PROVIDES A SOCIAL SECURITY NUMBER, AND THE COUNTY CLERK AND RECORDER OF THE COUNTY CAN MATCH THE NAME, DATE OF BIRTH, AND SOCIAL SECURITY NUMBER TO THE VOTER'S PRIOR REGISTRATION RECORD.

2.15.1.3 IF THE VOTER DOES NOT PROVIDE A PRIOR ADDRESS, DRIVER'S LICENSE NUMBER, OR SOCIAL SECURITY NUMBER, THE VOTER SHALL NOT BE TRANSFERRED FROM THE OLD COUNTY UNLESS THE ELECTOR SUBMITS A REQUEST TO HAVE HIS NAME REMOVED FROM THE VOTER LIST IN ACCORDANCE WITH SECTION 1-2-601, C.R.S. THE COUNTY CLERK AND RECORDER OF THE COUNTY OF PRIOR RESIDENCE MAY SEND NOTICE TO THE VOTER BY FORWARDABLE MAIL TO THE VOTER'S ADDRESS OF RECORD. ANY SUCH NOTICE SHALL HAVE A RETURNABLE PORTION THAT HAS THE RETURN POSTAGE PREPAID AND IS PREAMBITTED TO THE SENDING COUNTY CLERK AND RECORDER, AND SHALL INCLUDE AN AREA FOR THE VOTER TO INDICATE IF THE VOTER HAS MOVED TO ANOTHER COUNTY AND WISHES TO HAVE HIS OR HER VOTER REGISTRATION RECORD TRANSFERRED FROM THE OLD COUNTY.

New rule 2.16 is adopted as follows:

2.16 AN ELECTOR WHO HAS RECEIVED NOTICE THAT HIS OR HER APPLICATION FOR REGISTRATION MAY NOT BE PROCESSED OR WHOSE REGISTRATION WAS CANCELLED BECAUSE HIS OR HER NAME WAS MATCHED WITH A RECORD BEARING THE SAME NAME, DATE OF BIRTH, AND SOCIAL SECURITY NUMBER IN THE DATABASES PROVIDED BY COLORADO DEPARTMENT OF CORRECTIONS OR COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND WHO BELIEVES THAT THE MATCH WAS ERRONEOUS, MAY REQUEST THAT HIS OR HER APPLICATION BE PROCESSED OR REGISTRATION BE REINSTATED IF HE OR SHE:

- A. APPEARS IN PERSON AT THE OFFICE OF THE COUNTY CLERK AND RECORDER AND PRESENTS IDENTIFICATION; OR
- B. RETURNS TO THE OFFICE OF THE COUNTY CLERK AND RECORDER A SIGNED, NOTARIZED, AND DATED STATEMENT AFFIRMING THAT HE OR SHE BELIEVES THE MATCH WAS IN ERROR. THIS STATEMENT MUST CONTAIN THE ELECTOR'S PRINTED NAME, RESIDENTIAL ADDRESS, AND DATE OF BIRTH.

Rule 8.1.2 is amended as follows:

8.1.2 "Watcher" shall mean an eligible elector, IN THE STATE OF COLORADO, other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary OR RECALL election, by an unaffiliated candidate at a general, congressional vacancy, or nonpartisan, OR RECALL election by a person designated by either the opponents/proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder. A DESIGNATED WATCHER NEED NOT BE A RESIDENT OF THE COUNTY HE OR SHE IS DESIGNATED IN AS LONG AS HE OR SHE IS AN ELIGIBLE ELECTOR IN THE STATE OF COLORADO. See section 1-1-104(51), C.R.S.

Rule 8.9 is amended as follows:

8.9 APPOINTMENT OF WATCHERS

~~8.9~~ 8.9.1 Parties May Appoint Watchers. Major and minor political parties with candidates on the ballot may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail and mail-in ballots. See sections 1-7-105 and 1-7-106, C.R.S.

8.9.2 REGISTERED ISSUE COMMITTEES MAY APPOINT WATCHERS. REGISTERED ISSUE COMMITTEES SUPPORTING OR OPPOSING A BALLOT MEASURE MAY APPOINT ONE WATCHER EACH TO BE PRESENT TO OBSERVE POLLING PLACE VOTING, EARLY VOTING, AND THE PROCESSING AND COUNTING OF REGULAR, PROVISIONAL, MAIL AND MAIL-IN BALLOTS.

New rules 8.14, 8.15, 8.16, and 8.17 are adopted as follows:

- 8.14 A DESIGNATED ELECTION OFFICIAL SHALL CERTIFY THE APPOINTMENT OF ALL ELIGIBLE WATCHERS DULY DESIGNATED BY A POLITICAL PARTY, CANDIDATE OR COMMITTEE PURSUANT TO SECTIONS 1-1-104(51), 1-7-105, 1-7-106, OR 1-7-107, C.R.S.
- 8.15 REMOVAL OF WATCHERS. WATCHERS WHO COMMIT, ENCOURAGE, OR CONNIVE IN ANY FRAUD IN CONNECTION WITH THEIR DUTIES, WHO VIOLATE ANY OF THE ELECTION LAWS, WHO VIOLATE ANY OF THESE RULES, WHO VIOLATE THEIR OATH, OR WHO HAMPER OR INTERFERE WITH THE ELECTION PROCESS MAY BE REMOVED BY THE DESIGNATED ELECTION OFFICIAL.
- 8.15.1 IF A WATCHER IS REMOVED, THE DESIGNATED ELECTION OFFICIAL SHALL IMMEDIATELY INFORM THE POLITICAL PARTY, CANDIDATE, OR COMMITTEE WHO APPOINTED THE WATCHER VIA TELEPHONE, EMAIL, AND/OR OTHER MEANS.
- 8.15.2 A REMOVED WATCHER MAY BE REPLACED BY AN ALTERNATE WATCHER DULY DESIGNATED PURSUANT TO SECTIONS 1-7-105, 1-7-106, OR 1-7-107, C.R.S. ANY DESIGNATED ELECTION OFFICIAL WHO REMOVES A WATCHER SHALL, TO THE BEST OF HIS/HER ABILITY, EXPEDITIOUSLY CERTIFY THE APPOINTMENT OF ANY DULY APPOINTED PERSON TO REPLACE A REMOVED WATCHER.
- 8.16 WATCHERS MAY BE DESIGNATED TO OBSERVE MORE THAN ONE PRECINCT OR POLLING PLACE BUT IN NO EVENT SHALL MORE THAN ONE WATCHER BE DESIGNATED FOR ANY SINGLE POLLING PLACE. SEE SECTION 1-7-106, C.R.S.
- 8.17 WATCHERS MAY BE APPOINTED TO OBSERVE RECALL ELECTIONS HELD PURSUANT TO ARTICLE 12, TITLE I, C.R.S. AND SHALL BE DESIGNATED IN ACCORDANCE WITH SECTIONS 1-7-106 AND 1-7-107, C.R.S.

Rule 12.3.4(b)(2) is amended as follows:

- (2) ANTICIPATED ~~D~~date of approval of election by governing body;

Rule 12.4.11 is amended as follows:

- 12.4.11 All return envelopes used in a mail ballot election coordinated by the county clerk and recorder ~~shall~~ MAY be formatted in such a manner that the voter's signature on the back of the envelope is concealed.
[Sections 1-7.5-106 and 1-7.5-107, C.R.S.]
- a. ~~Any county may apply to the Secretary of State for an exemption to this requirement by submitting a written application based on hardship or other good cause shown.~~
- b. ~~All applications for an exception shall include a statement of the hardship or good cause for which the exception is sought. The Secretary of State shall have ten (10) business days to approve or disapprove an application for such exemption.~~

Rule 13.17 is amended as follows:

- 13.17 All return mail-in ballot envelopes used in an election coordinated by the county clerk

and recorder shall MAY be formatted in such a manner that the voter's signature on the back of the envelope is concealed.

~~13.17.1 Any county may apply to the Secretary of State for an exemption to this requirement by submitting a written application based on hardship or other good cause shown.~~

~~13.17.2 All applications for an exception shall include a statement of the hardship or good cause for which the exception is sought. The Secretary of State shall have ten (10) business days to approve or disapprove an application for such exemption.~~

New rule 20.4 is adopted as follows:

20.4 INDIVIDUAL ENTRIES WHICH WERE NOT CHECKED BY THE SECRETARY OF STATE MAY NOT BE CHALLENGED AS SUFFICIENT OR INSUFFICIENT.

Rule 26.4.2 is amended as follows:

26.4.2 When verifying provisional ballots, the designated election official must check the ~~county~~ STATE OF COLORADO STATEWIDE voter registration database to see whether the elector has already voted in the election.

Rule 26.4.4 is amended as follows:

26.4.4 Verification of an elector's eligibility to have his or her provisional ballot counted shall be limited to the following sources to determine proof of voter registration:

- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;
- (b) ~~The local election office voter registration database;~~ THE STATE OF COLORADO STATEWIDE VOTER REGISTRATION DATABASE;
- (c) ~~The Secretary of State's voter registration database;~~
- (d)(c) The DMV Motor Voter database (Note: Possession of a driver's license is not conclusive proof of voter registration; elector must have registered to vote through the DMV.)

Rule 27.1 is amended as follows:

27.1.1 BALLOT MEASURE. AS USED IN THIS RULE 27, BALLOT MEASURE SHALL MEAN A BALLOT ISSUE OR BALLOT QUESTION AS DEFINED IN SECTIONS 1-1-104 (2.3) AND 1-1-104 (2.7), C.R.S.

~~27.1.1~~ 27.1.2 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

~~27.1.~~27.1.3 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader.

~~27.1.~~327.1.4 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.

~~27.1.~~427.1.5 Duplicated Provisional Ballot. A duplicated provisional ballot includes ballots duplicated for federal and state ~~issues~~ BALLOT MEASURES for which a provisional voter is eligible to vote.

~~27.1.~~527.1.6 Overvote. An overvote is a race, ~~question or issue~~ OR BALLOT MEASURE which contains votes for more than the maximum number of candidates or responses for a ballot ~~question or issue~~ MEASURE allowed.

~~27.1.~~627.1.7 Undervote. An undervote occurs when the voter does not vote for a ANY candidate IN A RACE, OR FOR OR AGAINST A ~~question, or issue~~ BALLOT MEASURE, or, when more than one person in a race is available, the voter does not vote for the maximum number of votes allowed.

[Existing rule 27.1.7 is relocated as new Rule 27.4.3.]

~~27.1.7~~ ~~Vote in Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, without extending the vote mark beyond the parameters of the instructions.~~

~~27.1.~~927.1.8 TARGET AREA SHALL MEAN ANY OF THE FOLLOWING:

- A. THE SQUARE OR OVAL OPPOSITE THE CANDIDATE'S NAME OR BALLOT RESPONSE ON A PAPER BALLOT; OR
- B. THE OVAL, INCOMPLETE LINE, OR INCOMPLETE ARROW OPPOSITE THE CANDIDATE'S NAME OR BALLOT RESPONSE (EXAMPLES: "YES", "NO", "FOR" OR "AGAINST") ON AN OPTICAL SCAN BALLOT

~~27.1.~~827.1.9 Write-In Vote. A vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter.

Rule 27.2 is amended as follows:

27.2 Multiple Page Ballots. In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who has returned at least one page of a multiple page printed ballot will be considered to have voted AND THE VOTES ON THE SUBMITTED PAGE(S) SHALL BE COUNTED. Any additional page returned at a later time shall not be counted but shall be appropriately marked, set

aside, and preserved as other election materials in accordance with section 1-7-802, C.R.S.

Rule 27.3 is amended as follows:

- 27.3.1 PURSUANT TO SECTION 1-7-309, C.R.S., Judges counting ballots on election day shall take into consideration the intent of the voter IN ACCORDANCE WITH RULE 27.7.
- 27.3.2 If a ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot ~~issue or question~~ MEASURE, no vote shall count for that race, ~~question, or issue~~ OR BALLOT MEASURE. ~~Judges shall take into consideration any notation by the voter that would clearly indicate the choice of the voter.~~
- 27.3.3 If ~~an issue, question or~~ A candidate race OR BALLOT MEASURE contains no markings by the voter, no tally will be made for that race, ~~question, or issue~~ OR BALLOT MEASURE, but all other candidate races, ~~issues, or questions~~ OR BALLOT MEASURES properly marked by the voter on the ballot shall be counted.
- 27.3.4 A ballot which has no markings for any candidate races, ~~issues or questions~~ OR BALLOT MEASURES shall be tallied as a blank ballot, but the voter shall be given credit for voting.
- ~~27.3.5 If the intent of the voter is clear on a write-in vote, the write-in vote shall be counted for a legally qualified candidate.~~

Rule 27.4.2 is amended as follows:

27.4.2 Central Count Optical Scan Procedures

(b) Sequence of Resolution Procedures

- (1) A zero tape shall be run indicating no votes cast or counted before the counting begins.
- (2) Official ballots shall be processed through the optical scanner, with sorted overvotes, blank ballots, and write-in ballots viewed and resolved by the resolution board. Only ballots sorted by the OPTICAL SCAN EQUIPMENT ~~machine~~ shall be subject to review by the resolution board. A VOTER'S INTENT SHALL NOT BE REVIEWED OR DETERMINED UPON INITIAL COUNTING OF BALLOTS UNLESS SUCH BALLOT IS SORTED BY THE OPTICAL SCAN EQUIPMENT. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized. The number of each duplicated ballot shall be entered on the resolution board log sheet.

(c) Resolution of optical scan ballots

- (1) Damaged or defective ballots shall be duplicated utilizing the ballot duplication procedures as provided in Rule ~~27.4.2(e)(5)~~27.6.

- (2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures as set forth in Rule ~~27.4.2(e)(5)~~-27.6. If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, ~~issues or questions~~ OR BALLOT MEASURES voted.
 - (3) Overvoted ballots shall be inspected by the resolution board AND RESOLVED IN ACCORDANCE WITH RULE 27.7. ~~Ballots that reflect marks that are clearly identified as unintentional but register an overvote on the scanner must be duplicated by the resolution board utilizing the procedures for duplication of ballots. If more marks are completed in a race, question, or issue than what is allowed for that race, question, or issue the duplication board can only duplicate if there is a notation by the voter that would clearly indicate the choice of the voter.~~
 - (4) Write-in votes sorted by the optical scan equipment on election day shall be delivered to the assigned write-in board for hand counting. DURING THE INITIAL BALLOT COUNT, ~~in~~ order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted. ~~When a race with a valid write-in is overvoted and the duplication board finds that a mark has been made for a valid candidate and the voter also wrote in the name of the same candidate on the write-in line and made a mark, the duplication board shall duplicate the ballot by making a mark by the name of the candidate printed on the ballot.~~
 - (5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.
- (d) Recount Procedures for Optical Scan
- (1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort undervotes for the individual race(s), ~~issue(s) or question(s)~~ OR BALLOT MEASURE(S) being recounted.

New rule 27.4.3 is adopted as follows:

27.4.3 VOTE ON OPTICAL SCAN BALLOTS. A CORRECTLY VOTED OPTICAL SCAN BALLOT OCCURS WHEN A VOTER, USING A READABLE MARKER, FILLS IN OR CONNECTS THE MINIMUM NUMBER OF OVALS/ARROWS PER RACE OR BALLOT MEASURE, NOT TO EXCEED THE MAXIMUM ALLOWABLE VOTES PER RACE OR BALLOT MEASURE, WITHOUT EXTENDING THE VOTE MARK BEYOND THE PARAMETERS OF THE INSTRUCTIONS.

New rule 27.5 is adopted as follows:

27.5 UNIFORM COUNTING STANDARDS FOR DRES. A VOTE THAT IS PROPERLY RECORDED, AS SPECIFIED BY THE VOTING INSTRUCTIONS, ON THE VOTING DEVICE FOR AN OFFICE OR BALLOT MEASURE SHALL BE COUNTED.

Succeeding rules are renumbered as follows:

~~27.6~~27.5 Duplication of Ballots.

New rule 27.7 is adopted as follows:

27.7 DETERMINATION OF VOTER INTENT

27.7.1 IF A VOTER USES A CONSISTENT ALTERNATE BALLOT MARKING METHOD THAT DEVIATES FROM THE METHOD SPECIFIED BY THE VOTING INSTRUCTIONS (SUCH AS CIRCLING OR PLACING A CHECK MARK BEHIND A CANDIDATE'S NAME OR BALLOT RESPONSE) AND DOES NOT PLACE AN "X", CHECK OR OTHER APPROPRIATE MARK IN THE TARGET AREA(S), THE VOTER WILL BE CONSIDERED TO HAVE VOTED FOR THE APPROPRIATE CANDIDATES AND OR BALLOT RESPONSES AND THE BALLOT SHALL BE DUPLICATED; EXCEPT THAT, IF A VOTER MARKS ANY OF HIS/HER CHOICES BY PLACING AN "X", CHECK OR OTHER APPROPRIATE MARK IN ANY TARGET AREA ON THE VOTER'S BALLOT, ONLY THOSE CHOICES WHERE THE TARGET AREA HAS BEEN MARKED SHALL BE COUNTED.

27.7.2 A BALLOT THAT HAS A MARK CORRECTLY IN THE TARGET AREA THAT PARTIALLY EXTENDS INTO ANOTHER TARGET AREA SHALL BE COUNTED AS A VOTE FOR THE CANDIDATE OR BALLOT RESPONSE SO MARKED.

27.7.3 WHEN RESOLVING AN OVERVOTED RACE, MARKS INDICATING THE VOTER'S INTENT SHALL INCLUDE, BUT NOT BE LIMITED TO, CIRCLING THE CANDIDATE'S NAME AND STRIKE-OUTS OR CORRECTIONS OF CHOICES.

27.7.4 WRITE-IN VOTES

27.7.4.1 IF A VOTER DESIGNATES A VOTE FOR A NAMED CANDIDATE ON THE BALLOT AND WRITES IN THE NAME OF THE SAME CANDIDATE IN THE WRITE-IN AREA, THE VOTE SHALL BE COUNTED.

27.7.4.2 IF A VOTER DESIGNATES A NAMED CANDIDATE ON THE BALLOT AND WRITES IN THE NAME OF A DIFFERENT CANDIDATE IN THE WRITE-IN AREA, IT SHALL BE CONSIDERED AN OVERVOTE FOR THAT OFFICE IF THE NUMBER OF CHOSEN CANDIDATES EXCEEDS THE NUMBER PERMITTED TO BE VOTED FOR IN THAT OFFICE AND NO VOTE SHALL BE COUNTED.

27.7.4.3 DURING ANY RECOUNT OF VOTES AND DURING THE INITIAL COUNT FOR HAND-COUNTED PAPER BALLOTS PURSUANT TO SECTION 1-7-305, C.R.S., THE WRITTEN NAME OF A WRITE-IN CANDIDATE IN THE WRITE-IN SPACE SHALL BE COUNTED WHETHER OR NOT THE TARGET AREA DESIGNATING THE SELECTION OF A WRITE-IN CANDIDATE HAS BEEN MARKED, PROVIDED THAT THE NUMBER OF CANDIDATES CHOSEN DOES NOT EXCEED THE NUMBER PERMITTED IN THAT OFFICE.

New rule 27.8 is adopted as follows:

27.8 WRITTEN PLAN FOR ALTERNATIVE COUNTING METHOD

27.8.1 GENERAL INFORMATION CONCERNING PLAN SUBMITTAL

27.8.1.1 ANY PLAN REQUIRING THE APPROVAL OF THE SECRETARY OF STATE FOR COUNTING VOTES AT AN ALTERNATIVE LOCATION OR BY AN ALTERNATIVE METHOD PURSUANT TO SECTION 1-7-603, C.R.S., SHALL BE SUBMITTED IN WRITING TO THE SECRETARY OF STATE NO EARLIER THAN 120 DAYS AND NO LATER THAN 60 DAYS PRIOR TO THE ELECTION AT WHICH IT IS TO BE IMPLEMENTED. A SEPARATE PLAN SHALL BE SUBMITTED FOR EACH ELECTION; EXCEPT THAT A COMBINED PLAN MAY BE SUBMITTED FOR BOTH THE PRIMARY AND GENERAL ELECTIONS IN THE SAME YEAR. IF A COMBINED PLAN IS APPROVED, THE SECRETARY OF STATE MAY WITHDRAW APPROVAL OR REQUIRE REVISION OF THE PLAN AFTER THE PRIMARY ELECTION AND NO LATER THAN THE SEVENTIETH DAY BEFORE THE GENERAL ELECTION. A REVISED PLAN, IF SO REQUIRED, SHALL BE SUBMITTED FOR APPROVAL NO LATER THAN 60 DAYS BEFORE THE GENERAL ELECTION.

27.8.1.2 THE SECRETARY OF STATE SHALL APPROVE OR DISAPPROVE THE ALTERNATIVE COUNTING PLAN NO LATER THAN FORTY-FIVE (45) DAYS BEFORE THE ELECTION AT WHICH THE PLAN IS TO BE IMPLEMENTED.

27.8.1.3 NO ALTERNATIVE COUNTING PLAN MAY BE IMPLEMENTED WITHOUT EXPRESS WRITTEN APPROVAL FROM THE SECRETARY OF STATE. ANY SUBMITTED PLAN MUST ESTABLISH MINIMUM PROCEDURES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS RULE 27.8.

27.8.2 TRANSFER LOGS

27.8.2.1 THE TRANSFER LOGS SHALL AT MINIMUM CONTAIN: THE DATE OF THE ELECTION; THE PRECINCT NUMBER; THE SEAL NUMBERS; AND THE NAMES OF THE POLLING PLACE JUDGE(S), THE TRANSFER JUDGE(S), AND THE COUNTING JUDGE(S) WHO CARRYOUT THE BALLOT TRANSFER.

27.8.3 PROCEDURES TO BE FOLLOWED AT THE POLLING PLACE

27.8.3.1 EACH POLLING PLACE SHALL HAVE AVAILABLE FOR USE A MINIMUM OF TWO (2) BALLOT BOXES TO ENSURE THAT AT LEAST ONE (1) BALLOT BOX IS ALWAYS AVAILABLE TO RECEIVE VOTED BALLOTS.

27.8.3.2 AT TIME OF BALLOT TRANSFER, A BIPARTISAN TEAM OF AT LEAST TWO (2) TRANSPORT JUDGES AND ONE (1) POLLING PLACE JUDGE SHALL TRANSFER BALLOTS IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

27.8.3.2.1 BOTH TRANSFER JUDGES AND THE POLLING PLACE JUDGE SHALL REVIEW THE TRANSFER LOGS TO ENSURE THAT ALL INFORMATION IS COMPLETE AND ACCURATE. WHEN ALL INFORMATION IS COMPLETE AND ACCURATE, BOTH TRANSFER JUDGES AND THE POLLING PLACE JUDGE SHALL INITIAL ALL COPIES OF THE TRANSFER LOGS.

27.8.3.2.2 IN FULL VIEW OF THE POLLING PLACE JUDGE, THE TRANSFER JUDGES SHALL SECURE THE TRANSFER LOG THAT IS TO REMAIN WITH TRANSFER CASE. THE TRANSFER JUDGES SHALL SECURE THE TRANSFER CASE IN ACCORDANCE WITH SECTION 1-7-307 (3), C.R.S. THE SEAL NUMBER OF THE SEAL TO BE USED SHALL BE NOTED ON THE TRANSFER LOGS PRIOR TO SEALING THE TRANSFER CASE.

27.8.3.2.3 AT THE CLOSE OF THE POLLS, THE DUPLICATE COPIES OF THE POLLING PLACE TRANSFER LOG(S) SHALL BE MAILED AT THE NEAREST POST OFFICE OR POST-OFFICE BOX BY A POLLING PLACE JUDGE TO THE DESIGNATED ELECTION OFFICIAL.

27.8.3.2.4 PURSUANT TO SECTION 1-7-108 (3), C.R.S., DULY APPOINTED WATCHERS MAY OBSERVE ALL ASPECTS OF THE PROCESS DESCRIBED IN THIS RULE 27.8.

27.8.4 PROCEDURES TO BE FOLLOWED DURING TRANSPORT

27.8.4.1 DURING BALLOT TRANSPORT, THE SEALED BALLOT TRANSFER CASE SHALL BE WITHIN THE CLOSE PHYSICAL PROXIMITY OF THE BIPARTISAN TEAM OF TRANSFER JUDGES AT ALL TIMES.

27.8.4.2 DELIVERY OF THE SEALED BALLOT TRANSFER CASE TO THE COUNTING LOCATION SHALL BE MADE AT ONCE AND WITH ALL CONVENIENT SPEED. HOWEVER, NOTHING IN THIS RULE 27.8.4.2 SHALL BE INTERPRETED TO PROHIBIT TRANSFER JUDGES FROM STOPPING AT MULTIPLE POLLING PLACES BEFORE ARRIVING AT THE COUNTING LOCATION.

27.8.5 PROCEDURES TO BE FOLLOWED AT THE COUNTING LOCATION

27.8.5.1 UPON ARRIVAL AT THE COUNTING LOCATION, THE BIPARTISAN TEAM OF TRANSFER JUDGES SHALL DELIVER THE SEALED BALLOT TRANSFER CASE TO THE DESIGNATED ELECTION OFFICIAL OR COUNTING JUDGES.

27.8.5.2 THE DESIGNATED ELECTION OFFICIAL OR COUNTING JUDGES SHALL TAKE POSSESSION OF THE TRANSFERRED BALLOTS BY NOTING THE DELIVERY DATE AND TIME AND VERIFYING THE SEAL NUMBERS ON THE TRANSFER LOG.

New Rule 29.12 is adopted as follows:

29.12 USE OF SIGNATURE VERIFICATION DEVICES

29.12.1 A COUNTY CLERK AND RECORDER WHO CHOOSES TO USE A SIGNATURE VERIFICATION DEVICE TO PROCESS MAIL-IN OR MAIL BALLOTS IN ACCORDANCE WITH SECTIONS 1-7.5-107.3 OR 1-8-114.5, C.R.S., SHALL CONDUCT ACCEPTANCE TESTING ON THE DEVICE PRIOR TO ITS USE IN AN ELECTION.

29.12.2 THE ACCEPTANCE TESTING CONDUCTED IN ACCORDANCE WITH THIS RULE SHALL BE SUFFICIENT TO VERIFY THE ACCURACY OF THE DEVICE. THE ACCEPTANCE TESTING SHALL ENSURE THAT THE DEVICE WILL NOT ACCEPT A SIGNATURE THAT A REASONABLE, TRAINED ELECTION JUDGE WOULD REJECT.

Rule 30.1.6 is amended as follows:

- A valid Medicare or Medicaid card issued by the CENTERS FOR MEDICARE AND MEDICAID SERVICES (FORMERLY THE United States Health Care Financing Administration);

Rule 44.6.3 is repealed as follows:

44.6.3 REPEALED. ~~The Secretary of State shall review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State shall impose a fine in accordance with section 1-2-703, C.R.S.~~

Rule 48.1 (E) is amended as follows:

E. Did you, while absent, vote in any other state or any territory of the United States?

Unsatisfactory response: YES~~No~~, while absent, he/she did vote in another state or territory of the United States.

Offer the elector a provisional ballot.

New rule 49 is adopted as follows:

RULE 49. CENTRALIZED STATEWIDE REGISTRATION SYSTEM

49.1 USERNAME AND PASSWORD ADMINISTRATION

49.1.1 THE STATE USER ADMINISTRATOR SHALL ASSIGN COUNTY ADMINISTRATOR PRIVILEGES TO THE INDIVIDUAL DESIGNATED IN EACH COUNTY BY THE COUNTY CLERK AND RECORDER.

49.1.1.1 THE COUNTY CLERK AND RECORDER SHALL SUBMIT THE REQUEST FOR COUNTY ADMINISTRATOR PRIVILEGE TO THE STATE USER ADMINISTRATOR IN WRITING. THE REQUEST SHALL SPECIFICALLY STATE THE FULL NAME OF THE COUNTY EMPLOYEE THAT IS BEING ASSIGNED AS A COUNTY ADMINISTRATOR.

49.1.2 EACH COUNTY MAY HAVE ADMINISTRATOR PRIVILEGES ASSIGNED TO NO MORE THAN ONE (1) INDIVIDUAL, EXCEPT THAT ANY COUNTY CLERK AND RECORDER MAY APPLY TO THE SECRETARY OF STATE FOR AN ADDITIONAL COUNTY ADMINISTRATOR.

49.1.2.1 SUCH APPLICATION SHALL BE SUBMITTED BY THE COUNTY CLERK AND RECORDER IN WRITING TO THE STATE USER ADMINISTRATOR AND SHALL STATE THE NAME OF THE COUNTY EMPLOYEE FOR WHICH COUNTY ADMINISTRATOR PRIVILEGE IS BEING SOUGHT. THE APPLICATION SHALL ALSO STATE THE SPECIFIC REASONS THE COUNTY CLERK AND RECORDER IS REQUESTING THE ADDITIONAL ADMINISTRATOR.

49.1.2.2 THE STATE USER ADMINISTRATOR SHALL NOTIFY THE COUNTY CLERK AND RECORDER IN WRITING WHETHER THE REQUEST IS APPROVED WITHIN FIVE (5) BUSINESS DAYS FROM RECEIPT OF THE APPLICATION.

49.1.3 THE COUNTY ADMINISTRATOR IS RESPONSIBLE FOR SECURITY ADMINISTRATION AND SHALL ASSIGN ALL ACCESS PRIVILEGES, AS WELL AS USERNAMES AND PASSWORDS FOR COUNTY EMPLOYEES AND TEMPORARY ELECTION WORKERS.

49.1.3.1 FOR COUNTY EMPLOYEES, THE COUNTY ADMINISTRATOR SHALL ASSIGN A UNIQUE USERNAME IN ACCORDANCE WITH THE NAMING CONVENTIONS PROVIDED BY THE SECRETARY OF STATE.

49.1.3.2 PASSWORDS SHALL BE ASSIGNED BY THE COUNTY ADMINISTRATOR UPON INITIAL AUTHORIZATION AND SHALL BE CHANGED BY USERS AND MAINTAINED CONFIDENTIALLY.

49.1.4 IF A COUNTY EMPLOYEE OR TEMPORARY ELECTION WORKER IS NO LONGER EMPLOYED BY THE COUNTY, THE COUNTY ADMINISTRATOR SHALL INACTIVATE THE USERNAME WITHIN A REASONABLE TIMEFRAME, NOT TO EXCEED ONE (1) BUSINESS WEEK.

49.2 CUSTODIANSHIP OF VOTER REGISTRATION INFORMATION

49.2.1 THE SECRETARY OF STATE SHALL BE THE OFFICIAL CUSTODIAN OF THE INFORMATION CONTAINED IN THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM AND THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST CREATED AND MAINTAINED PURSUANT TO SECTION 1-2-301, C.R.S.

49.2.2 THE COUNTY CLERK AND RECORDER FOR EACH COUNTY SHALL BE THE OFFICIAL CUSTODIAN OF THE VOTER REGISTRATION INFORMATION ONLY FOR ELECTORS WITHIN THAT COUNTY.

49.3 VOTER INFORMATION REPORTS AND SERVICES

49.3.1 THE SECRETARY OF STATE SHALL CHARGE FEES FOR VOTER INFORMATION REPORTS AND RELATED SERVICES IN ACCORDANCE WITH SECTION 24-21-104(3), C.R.S.

49.3.2 THE COUNTY CLERK AND RECORDER OF EACH COUNTY MAY CHARGE FEES FOR COUNTY VOTER INFORMATION REPORTS AND RELATED SERVICES, SUCH AS THE

PRINTING OF LABELS PROVIDED BY THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM. HOWEVER, IN ACCORDANCE WITH FEDERAL REQUIREMENTS GOVERNING THE USE OF FEDERAL FUNDS, FEES SHALL NOT EXCEED COUNTY DIRECT AND INDIRECT COSTS FOR PROVIDING SUCH REPORTS AND SERVICES.

These new and amended rules shall take effect twenty (20) days after publication in the Colorado Register in accordance with the State Administrative Procedures Act.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

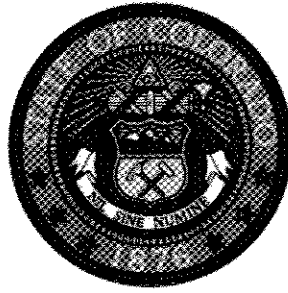
Dated this 11th Day of July, 2008.



William A. Hobbs
Deputy Secretary of State

For

Mike Coffman
Colorado Secretary of State



Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Election Rules 8 CCR 1505-1

July 11, 2008

1. Basis and Purpose

This statement pertains to the amendments to the Colorado Secretary of State Election Rules for the administration of Colorado State Constitution Article VII, and Title 1 of the Colorado Revised Statutes. The amendments are implemented to achieve the uniform and proper administration and enforcement of the election laws of the State of Colorado, including the requirements of the federal Help America Vote Act of 2002 ("HAVA"), U.S.C. 15301 to 15545. See sections 1-1.5-101 *et seq.*, C.R.S. (2007).

The amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Titles 1 of the Colorado Revised Statutes. Such revisions are necessary to improve the administration of elections in Colorado and to answer questions arising under Title 1 of the Colorado Revised Statutes, and to implement amendments to the Colorado election laws made during the 2008 regular session of the 66th General Assembly. The adoption of the amendments to the Rules is further necessary to increase the transparency and security of the election process.

The adoption of specific amendments to the Election Rules is necessary as follows:

- The amendments to Rules 2.5.3, 26.4.2 and 26.4.4 support implementation of the statewide voter registration database.
- The amendments to Rule 2.12 implement amendments made by House Bill 08-1274. Specifically, the term "actual address" shall include the county and voting precinct number.
- New Rule 2.14 clarifies the effective date of a voter registration application received at the office of the Secretary of State. Specifically, the effective date shall be the date of receipt by the office of the Secretary of State or, in the case of an application received by mail, the date of the postmark if legible.
- New Rule 2.15 clarifies when a county clerk and recorder may transfer the voter registration record of an elector who has moved and registered in a new county.
- New Rule 2.16 clarifies cancellation of voter registration when an elector's name is matched with a record bearing the same name, date of birth, and social security

number in the databases provided by the Colorado Department of Corrections or Colorado Department of Health and Environment. This rule establishes that an elector may request that his or her application for voter registration be processed or registration be reinstated if he/she either appears in person at the office of the county clerk and recorder and presents a form of authorized identification or returns to the office of the clerk and recorder a signed, notarized, and dated statement affirming his/her belief that the match was in error.

- The amendments to Rule 8 clarify “watcher” eligibility requirements. Specifically, a designated watcher need not be a resident of the county he/she is designated in as long as he/she is an eligible elector in the state of Colorado.
- New Rules 8.14-8.17 clarify the designation of watchers.
- The amendments to Rule 12.3.4(b)(2) concerning mail ballot election written timetable specifications, is necessary to clarify that an anticipated date of approval of election by the governing body is acceptable considering that the designated election official will not know the exact date if the written plan is submitted to the Secretary of State online.
- The amendments to Rule 12.4.11 and 13.17 establish that the mail ballot return envelope shall not be required to have a flap covering the signature or otherwise impede the use of a signature verification device in accordance with amendments to section 1-7.5-107, C.R.S, made by House Bill 08-1128.
- New Rule 20.4, concerning verification of petitions and challenges to the determination of sufficiency or insufficiency, is necessary to restore a rule inadvertently repealed when Rule 20 was amended in 2007. Specifically, the rule will reestablish that individual entries which were not check by the Secretary of State may not be challenged as sufficient or insufficient.
- The amendments to Rule 27 clarify uniform ballot counting standards, and establish rules concerning determination of voter intent and written plan requirements for alternative counting methods.
- New Rule 29.12 implements amendments to section 1-8-114.5, CRS, made by House Bill 08-1128, requiring the Secretary of State to establish procedures for using signature verification devices to process mail-in ballots and ballots used in mail ballot elections.
- The amendment to Rule 30.1.6 clarifies the US Federal Agency that issues Medicare or Medicaid cards. Specifically, the United States Health Care Financing Administration is now the Centers for Medicare and Medicaid Services.
- Rule 44.6.3 is repealed to eliminate repetition with Rule 44.6.4.
- The amendment to Rule 48, relating to voter challenges, clarifies when a challenged person answers one of the challenge questions insufficiently.
- New Rule 49 establishes rules concerning the Centralized Statewide Registration System. The rule establishes uniform administration and maintenance of usernames and privilege assignment in the SCORE system and clarifies custodianship of voter registration information and fees for voter information reports for the purposes of the Public (Open) Records Act, section 24-72-202, C.R.S.

The Secretary of State therefore finds that in order to ensure the uniform and proper administration and enforcement of the election laws, the permanent adoption of the amendments to the Rules is necessary both to comply with law and to preserve the public welfare generally.

2. Statutory Authority

Amendments to the Colorado Secretary of State Election Rules are adopted pursuant to the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S. (2007), which authorizes the Secretary of State:
“[t]o promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-101(1)(c), C.R.S. (2007), which states that the purposes of HAVA include preventing “disenfranchisement resulting from mistaken determinations of ineligibility.”
3. Section 1-1.5-104(1), C.R.S. (2007), which provides that:
“The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA . . . including, without limitation, the power and duty to:
(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article.”
4. Section 1-40-132, C.R.S. (2007), which states that “The secretary of state shall have the authority to promulgate rules as may be necessary to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments.”